

MINUTES

BOARD OF ADJUSTMENT

TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY

Regular Meeting

December 10, 2015

The Regular Meeting of the Board of Adjustment was called to order at 7:30 PM in the Public Meeting Room.

It was confirmed that the meeting was being held in conformance with all regulations of the SUNSHINE LAW and proper notice had been given to the Courier News; also, the Agenda had been posted in Town Hall, Board Office, and supplied to the Township Clerk at least forty-eight hours prior to the meeting. The Agenda items will not necessarily be heard in the order listed and the meeting will not continue significantly past 10:30 PM.

Roll Call:

Members present were Mr. Sullivan, Mr. Miller, Mr. Smith, Mr. Siburn, Mr. Nappi, Mr. Delia, Mr. Sylvester and Mr. Mustacchi. Mr. Boyer was absent. Mr. Daniel Bernstein, Board Attorney, was also present.

Adoption of Minutes

November 12, 2015

A motion was made by Mr. Mustacchi, seconded by Mr. Nappi, and carried by unanimous voice vote to adopt the minutes of the November 12, 2015 Regular Meeting as presented.

Adoption of Resolutions:

App.#24-15: Neil Hemann, 347 Park Avenue, Block 1005, Lot 7 (R-15 Zone)

Proposed installation of a residential storage shed not in conformance with the required rear yard accessory setback of 10 feet. Relief is needed from Section 6.1.1B "Schedule of General Regulations." Other nonconforming issues were addressed in variance case No. 20-81.

A motion was made by Mr. Smith, seconded by Mr. Delia, to adopt the above Resolution. The voice vote was unanimous with Mr. Sullivan, Mr. Miller, Mr. Smith, Mr. Nappi, Mr. Delia and Mr. Mustacchi voting in favor.

App.#16-15: Remax Integrity, 501A Springfield Avenue, Bl. 206, L. 1 (DD Zone)

Proposed new ground sign, 2' x 2' x 52" high off the ground. The carved PVC sign will contain the company name and logo. Relief is needed from Section 5.4.2.DD of the ordinance which allows for façade signs only and prohibits ground signs. On July 16, 2013, the business was issued zoning approval to install one façade sign, a window sign and a message sign on each of the two existing ground signs located at the entry drives to the complex. All of these signs have been installed.

Mr. Sullivan advised that the applicant has put up the blade sign without satisfying the condition that two signs be removed. Discussion took place and it was suggested that a letter be sent to Tom Bocko asking him to enforce the conditions of approval.

A motion was made by Mr. Mustacchi, seconded by Mr. Sylvester, to adopt the above Resolution. The voice vote was unanimous with Mr. Sullivan, Mr. Mustacchi and Mr. Sylvester voting in favor.

Mr. Siburn arrived at the meeting (7:34).

Applications for Review:

App.#11-14: 174 Snyder Ave. BH, LLC, 174 Snyder Ave., Block 801, Lot 50 (R-15 Zone)

Application for a certificate of pre-existing nonconforming use for a four-family residence was denied by the Board in February 2015, and the application for a use variance for a four-family residence was denied at the April 9, 2015, Board of Adjustment meeting. A d-variance for three apartments (two one-bedroom apartments and one two-bedroom apartment) within the existing structure was approved on April 9, 2015, and memorialized by resolution on June 11, 2015. The resolution required that the Applicant submit a plot plan and revised architectural plans and appear at a public hearing on public notice for Board consideration of the plans.

Jay Bohn, attorney for the applicant, stated that several months ago the Board granted approval for the applicant's building to have three units. A condition of approval was review of the plot plan and architectural plans. The applicant is now here to present those plans and receive comments from the Board.

Kevin Page, engineer, was sworn and accepted as an expert witness. Mr. Page reviewed the conditions of approval that have been met including removal of the northwest driveway and return to grass area, picket-style fence, removal of northwest driveway apron and construction of a parking area in the rear of the structures. He noted that this has been designed to be similar to a private home.

Mr. Mistretta advised that the applicant has addressed his questions and concerns. With regard to the landscaping he thinks it would be more interesting to have a mix of plantings in the front.

Mr. Page said they would have no objection to a mix of plantings.

Antonio Santorella, applicant, was sworn and presented architectural plans prepared by Potter Architects, last revised 11/9/15. The existing building is a two story structure with four units. The plan is to make it three units – two 1-bedroom units on the first floor and one 2-bedroom unit on the second floor. The mechanicals will be taken out of the basement and washer and dryer units will be installed in each of the units. The basement will now be used only for storage by the tenants. The drainage issues are being addressed with a French drain. The attic will be accessed from the second floor unit and will be used for storage. Each unit on the first floor will have access to the basement and the Bilko doors are being removed.

Mr. Mistretta noted that a condition of approval was that there be no expansion of the basement but the plans still show excavation of 1'2" in the basement. Mr. Sullivan stated that in his opinion the excavation would be an expansion and he would prefer to leave it alone and just address the drainage issue.

Mr. Santorella agreed.

Open to Public

The hearing was opened to the public for comments or questions regarding the application. There were no members of the public who had comments or questions.

A motion was made by Mr. Nappi, seconded by Mr. Siburn, with respect to App#11-14: 174 Snyder Ave. BH, LLC, 174 Snyder Ave., Block 801, Lot 50 (R-15 Zone) to approve the plans as submitted, subject to the conditions discussed and further subject to the standard conditions that shall be set forth in a Resolution of Memorialization to be adopted by the Board. The voice vote

was 7-0 with Mr. Sullivan, Mr. Smith, Mr. Siburn, Mr. Nappi, Mr. Delia, Mr. Mustacchi and Mr. Sylvester voting in favor and Mr. Miller not voting.

App.#27-15: Peter Bruno, 9 Gregory Court, Block 4201, Lot 2.01 (R-20 Zone)

Construction of new deck to replace existing deck. Relief is needed from Section 6.1.1B. "Schedule of General Regulations" because the new deck will encroach into the required rear yard setback. In addition, the deck (or portion thereof) which does not comply with the rear yard setback requirements may not exceed 4 ft. above the ground level and may not exceed 400 sq. ft. in accordance with Section 3.1.8 "Decks." The proposed deck will exceed the 4 ft. height limit and the size limitation described in Section 3.1.8. Nonconforming issues are existing "other" coverage and total lot coverage.

Peter Bruno, applicant, was sworn and stated that the original deck that is attached to his house is failing so he is going through the process of replacing it with slight modifications. When he applied for a permit it was determined that a variance is needed for the existing setback situation. His house is on the corner but the house behind him has a strip of land that wraps around his property.

Mr. Bruno presented Exhibit A-1 – photograph of the side property, Exhibit A-2 – photograph taken from the middle of the back property looking toward the street, Exhibit A-3 - photograph of the view from the deck looking at the house behind the applicant's, and Exhibit A-4 – similar photo looking at the house from a different angle.

Mr. Sullivan noted that the existing deck is 21' from the property line and the new deck is the same. The proposed deck will not be any closer than what exists today.

In response to questions from the Board, Mr. Bruno stated that there is an existing shed under the deck which will be removed and the area under the deck will remain as an open area. The height of the deck is 7' and it is located above the sliding door in the kitchen.

Open to Public

The hearing was opened to the public for comments or questions regarding the application. There were no members of the public who had comments or questions.

A motion was made by Mr. Miller, seconded by Mr. Delia, with respect to App.#27-15: Peter Bruno, 9 Gregory Court, Block 4201, Lot 2.01 (R-20 Zone) to approve the application with variances, subject to the standard conditions that shall be set forth in a Resolution of Memorialization to be adopted by the Board. The voice vote was 7-0 with Mr. Sullivan, Mr. Miller, Mr. Smith, Mr. Siburn, Mr. Nappi, Mr. Delia and Mr. Mustacchi voting in favor and none opposed.

App.#28-15: Mr. & Mrs. Mark Collins, 43 Riverbend Road, Block 504, Lot 81 (R-15 Zone)

Proposed second story addition over a portion of the existing first floor of this split level house. A new bedroom and bathroom will be added with additional interior renovations. A new deck is also proposed. Relief is needed from Section 6.1.1B "Schedule of General Regulations" because the existing house has a front yard setback of 44 ft. (vs. 50 ft. required) and the setback to the proposed second story addition would be 46.7 ft. Relief is also needed from Section 8.1.1B.1.: "No nonconforming single family dwelling and no single family dwelling on a nonconforming lot may be enlarged, extended or increased unless said enlargement by itself conforms with all requirements of the zoning ordinance." Nonconforming issues are lot area, lot width, lot depth, and principal front yard setback.

Mark Collins, applicant, was sworn and stated that he wants to put an addition on his house. A variance is needed to continue the existing non-conforming front yard setback. The existing house is less than the required 50' from the street. There is no change proposed to the foundation; they are just going to renovate the kitchen and increase the size of the deck in the back and add a bedroom and bathroom upstairs. The purpose of the expansion is to accommodate his expanding family.

Mr. Sullivan noted that the side yard setbacks are in compliance, the impervious coverage does not change and the 3½' front yard setback variance is an expansion of a pre-existing non-conforming condition.

Open to Public

The hearing was opened to the public for comments or questions regarding the application. There were no members of the public who had comments or questions.

A motion was made by Mr. Smith, seconded by Mr. Siburn, with respect to App.#28-15: Mr. & Mrs. Mark Collins, 43 Riverbend Road, Block 504, Lot 81

(R-15 Zone) to approve the application with variances, subject to the standard conditions that shall be set forth in a Resolution of Memorialization to be adopted by the Board. The voice vote was 7-0 with Mr. Sullivan, Mr. Miller, Mr. Smith, Mr. Siburn, Mr. Nappi, Mr. Delia and Mr. Mustacchi voting in favor and none opposed.

App.#25-15: Alan & Linda Quayle, 60 Evergreen Drive, Block 2202, Lot 2 (R-15 Zone)

Applicant is proposing to construct a second story addition over the existing first floor of this single family dwelling. Also proposing a new portico to cover the front porch. The existing house is nonconforming as to principal front yard setback and lot area. Relief is needed from Section 6.1.1B "Schedule of General Regulations" which requires a principal front yard setback of 50' where 41.12' is existing and 37.12' is proposed to the new portico over the front porch and 41.12' is proposed to the new second story addition. Relief is also needed from Section 8.1.1B "Nonconforming Buildings" which prohibits a nonconforming structure from being enlarged, extended or increased.

Linda Quale, applicant, was sworn.

Carol Hewitt, architect, was sworn and stated that the applicant is requesting a variance for front yard setback. They are adding a second floor over the existing footprint. The property is in the R-15 zone where a 50' setback is required; the existing setback is 41.12' and the proposed setback will be 41.12' except for the front portico which will be 37.12'.

Ms. Hewitt reviewed the plans for the addition. There will be some renovations to the existing first floor including converting two bedrooms into a library and powder room. On the second floor they propose to add four bedrooms and a master bath with a small laundry room. There is an existing deck that will be changed and other improvements include siding, windows, new roof and a new portico.

Ms. Hewitt presented Exhibit A-1 – photo board showing the existing house in need of renovation and showing photos of typical houses in the neighborhood with 40' setbacks.

In response to questions from the Board, Ms. Hewitt stated that the ceiling height in the attic will be 6'6". The attic will be an unfinished storage area containing the air conditioning unit. The applicant would have no objection to removing the paved area in the bottom corner of the property and restoring that to grass.

Open to Public

The hearing was opened to the public for comments or questions regarding the application. There were no members of the public who had comments or questions.

A motion was made by Mr. Miller, seconded by Mr. Nappi, with respect to App.#25-15: Alan & Linda Quayle, 60 Evergreen Drive, Block 2202, Lot 2 (R-15 Zone) to approve the application with variances, subject to the conditions as discussed and further subject to the standard conditions that shall be set forth in a Resolution of Memorialization to be adopted by the Board. The voice vote was 7-0 with Mr. Sullivan, Mr. Miller, Mr. Smith, Mr. Siburn, Mr. Nappi, Mr. Delia and Mr. Mustacchi voting in favor and none opposed.

CARRIED FROM OCTOBER 22, 2015, WITHOUT FURTHER NOTICE:
App.#18-15: Ondina Purcell, 685 Mountain Avenue, Block 2006, Lot 30,
(R-15 Zone)

Proposed principal addition consisting of an attached one-car garage (12 ft. x 27ft.) and new living space (9 ft. x 12 ft.). Also proposing to enclose the existing covered porch. Relief is needed from Section 6.1.1B "Schedule of General Regulations" because the proposed addition will result in insufficient side yard and combined side yard setbacks.

Ondina Purcell, applicant, was sworn and stated that she is seeking a variance for the side yard setback of 8' where 12' is required. She is proposing to change the one car garage to a two car garage.

In response to questions from the Board, Ms. Purcell stated that she has owned the home since July and the home she moved from had a two car garage. The driveway will be left as it is and the garage will have two doors. She would not have a problem with a condition that the garage will be kept as a two car garage and that a portion of the driveway will be restored to grass.

Mr. Sullivan noted that the existing driveway is 3' off the property line and there is no shed on the property. A variance will be included for the driveway setback. He further noted that the existing fence is set in from the property line more than required.

Discussion took place and it was further suggested that the applicant place some plantings along the fence or the foundation of the new garage. Ms. Purcell agreed to the plantings.

Open to Public

The hearing was opened to the public for comments or questions regarding the application. There were no members of the public who had comments or questions.

A motion was made by Mr. Delia, seconded by Mr. Mustacchi, with respect to App.#18-15: Ondina Purcell, 685 Mountain Avenue, Block 2006, Lot 30, (R-15 Zone) to approve the application with variances, subject to the conditions as discussed and further subject to the standard conditions that shall be set forth in a Resolution of Memorialization to be adopted by the Board. The voice vote was 7-0 with Mr. Sullivan, Mr. Miller, Mr. Smith, Mr. Siburn, Mr. Nappi, Mr. Delia and Mr. Mustacchi voting in favor and none opposed.

Mr. Smith left the meeting (9:00).

CARRIED FROM OCTOBER 22, 2015, WITHOUT FURTHER NOTICE:
App.#9-15: 569 Springfield Avenue, LLC, 569 Springfield Ave., Bl. 610, L. 8 (HB-3 Zone)

The applicant appeared before the Board earlier this year but put the application on hold to develop a revised plan. The new proposal is for preliminary and final site plan approval of 7 residential 2-story townhouse units, split between two buildings. (The existing single family dwelling will be demolished.) Relief is needed from Section 6.3.3(A)(4)(c) relating to an increase in density and Section 11.1.2B relating to parking spaces (14 spaces proposed compared with 16 required). A bulk variance under Section 6.1.1B is also needed due to insufficient rear yard setback (of the rear set of townhomes).

August Santore, attorney for the applicant, stated that at the last meeting there were questions raised about accessibility of the site and whether trucks can get up the driveway. An email was received from the Fire Department in which they recommend that both buildings be fully sprinklered and the applicant will agree to that. Another outstanding issue involves parking on the site or on Springfield Avenue. The applicant prefers to keep the courtyard and use parking on Springfield Avenue.

Robert Gazzale, previously sworn, stated that he met with the Fire Department representative, Mr. Hopkins, to discuss their concerns with regard to the access to the site. The Fire Department had concerns about the building not being sprinklered and about the change in grade from Springfield Avenue into the driveway. Mr. Gazzale said he measured the vehicle that would be the

one to respond and drew a profile that showed the truck would not bottom out while accessing the driveway which was satisfactory to Mr. Hopkins.

Robert Coletta, architect, was sworn and accepted as an expert witness. Mr. Coletta stated that the project will run parallel to Springfield Avenue and be layered in two buildings with a courtyard. This is a typical townhouse development that includes some aesthetics such as hardy plank, stone in the front, shadow boxes to break up the façade and French doors to make the project attractive.

Mr. Coletta presented Exhibit A-8 - drawing that shows the view from a person standing on the sidewalk. Mr. Coletta stated that the roof of the two story building is not visible from the sidewalk and indicated the location of landscaping that covers the 4' fence. From the courtyard about a 4' section of the roof is visible. The perceived height of the building will be less than the actual height and the back of the building will be no different from a one story home. The building will be well below the height ordinance at approximately 29'. As designed the building is in conformance with the ordinance but the applicant is willing to drop the height and request a variance.

Discussion took place regarding what the building will look like from a car passing on Springfield Avenue and Mr. Coletta stated that the roof of the building will not be visible from a car. There will also be some screening provided by trees.

Mr. Coletta presented Exhibit A-9 – plan showing the location of existing trees.

Discussion took place regarding the view of the rear building from Washington Street. Mr. Santore noted that the applicant will be planting 10' trees and putting up a 6' fence. Mr. Coletta suggested that if the neighbors do not want to look at the fence the landscaping can be put on the other side of it.

In response to a question from the Board, Mr. Coletta stated that the rear setback is 15' to the base of the building but 13½' with the enhancements. If the Board wants a flat wall in the back the applicant can do that.

Mr. Mistretta advised that he is not comfortable with the 13½' setback as it is too close to the neighbors. In his opinion there is 25' required and going down to 13½' is too close. He does not feel comfortable with that building being 15' from the rear property line.

Mr. Coletta reviewed the room dimensions. He said the interior units are 1,544 square feet and the end units are 1,616 square feet and making the building smaller is not doable. If the units were made wider that would make the building too long.

Discussion took place regarding the distance from the neighbors in the rear. A 25' setback is required and 13½' is proposed.

Mr. Mistretta made suggestions with regard to the size of the units that would increase the setback. He further suggested that the Board grant a waiver for the parking spaces in front of the garages to be 17' rather than 18' and the driveway to be 22' wide rather than 23'.

Open to Public

The hearing was opened to the public for questions regarding Mr. Coletta's testimony.

Scarlett Doyle, professional planner representing Maria Schaumberg, previously sworn, asked if Mr. Coletta considers the townhouses to be indigenous to the other homes in the neighborhood.

Mr. Coletta stated that the project is consistent with the neighborhood.

Ms. Doyle asked for Mr. Coletta's opinion as to the number of stories in the townhouses and whether he would consider a split level home to be two stories.

Mr. Coletta stated that the townhouses are two stories and he would consider a split level to have two stories. The houses behind the project are two-story.

Ms. Doyle indicated on Exhibit S-7 a modification she would propose that would remove the staircase and reduce the height of the building.

Mr. Coletta stated that Ms. Doyle's suggestion would eliminate the garage and storage area.

Ms. Doyle presented Exhibit S-13 – definition of a story and reviewed the layout of the proposed townhouses. Ms. Doyle expressed the opinion that the townhouses are more than two stories.

Mr. Coletta stated that in his opinion the townhouses are two story buildings.

Hu Kai, 161 Washington Street, previously sworn, asked how many years it will take for the trees to get to full maturity.

Mr. Gazzale stated that the applicant has agreed to plant 8-10' tall trees along the back line and they should get to 16' in 10 years.

Mr. Coletta noted that the applicant is willing to do whatever the Board wants as far as trees.

Jun Hu, 161 Washington Street, previously sworn, asked if the entrances with stairs will be ADA compliant.

Mr. Coletta stated that townhouse buildings do not have to comply with ADA. Mr. Gazzale stated that the project is ADA compliant but not inside of the buildings.

Mr. Hu asked about the soil tests and storm water management.

Mr. Gazzale stated that all of those issues have been addressed with Union County. The storm water management design has been approved by the County.

Mr. Hu asked about the sight triangle on Springfield Avenue.

Mr. Gazzale stated that Springfield Avenue is a flat long road and this project will not impact the sight triangle. Mr. Santore objected to questions which have been previously asked and answered.

Julie Lloyd, Downtown Beautification Committee, was sworn. Ms. Lloyd thanked the applicant for listening to the Committee's recommendations. She said she would like to sit down with the applicant and Mr. Mistretta to discuss the project and asked about the signage that is proposed. Ms. Lloyd further stated that the Committee does not like the back of the building facing Springfield Avenue and asked if there is a way to make it look like the front of the building.

Mr. Santore said the applicant would be willing to meet with the Committee. There are no signs on the street proposed but there might be signage on the side of the building.

Discussion took place regarding a proposed meeting among the applicant, Mr. Mistretta, the Downtown Beautification Committee and Ms. Doyle. Mr. Santore

said he will act as facilitator and try to get dates that the parties can get together to discuss these issues.

Mr. Mistretta discussed his major concerns including the rear setback, interior width of the units, visitor parking spaces and the height of the building.

Further discussion took place and the Board members discussed the concerns that they would like to have addressed by Mr. Mistretta at the meeting including rear setback, safety of the driveway, location of sidewalks and visibility from Springfield Avenue and from Washington Avenue.

The hearing of the application was carried to the January 28, 2016 meeting of the Board with no further notice required.

Adjournment:

A motion was made by Mr. Miller, seconded by Mr. Sylvester, to adjourn the meeting. The voice vote was unanimous and the meeting was adjourned at 11:03 PM.

Regina Giardina, Secretary Pro Tem